



State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**  
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-1370 FAX (603) 271-1381



October 1, 2001

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

**LETTER OF DEFICIENCY  
No. WMD 01-27**

Irving Oil Company  
190 Commerce Way  
Portsmouth, NH 03802

Attn: Al Perkins, Regional Manager

**RE: Irving Oil Company, Alton Bulk Plant, Alton, NH  
EPA ID No. NHD510153935**

Dear Mr. Perkins:

On August 15, 2001, the Department of Environmental Services (DES) conducted an inspection of Irving Oil Company's Alton Bulk Plant (Irving). The purpose of the inspection was to determine Irving's compliance status with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules (codified as Env-Wm 100-1000).

As a result of the inspection, the following deficiencies in your hazardous waste management program were documented:

1 Env-Wm 502.01 - hazardous waste determination

At the time of the inspection, Irving had not performed site-specific waste determinations for the following facility wastes:

- A One (1) dark green 55-gallon container of oil inside the building;
- B One (1) 5-gallon container of unknown liquid inside the building;
- C Four (4) 5-gallon containers of waste paint stored outside the building;
- D One (1) 55-gallon container of waste absorbents at the fill station area; and
- E One (1) black 55-gallon container of waste petroleum (gasoline) in the fill station area

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules.

DES requests that Irving perform a hazardous waste determination for the wastes identified above. This determination should be made using analytical testing. This testing should include, at a minimum, Toxicity Characteristic Leaching Procedure for RCRA metals and organics under Env-Wm 403.06, and ignitability under Env-Wm 403.03. Irving will need to provide the results of the hazardous waste determination, along with any other supporting data, such as chemical analyses, to DES. For your convenience, enclosed is a list of laboratories that perform hazardous waste analysis.

Irving may declare any of the above-mentioned wastes to be hazardous based on knowledge of the wastes, and forego the expense of the testing. In the event wastes are determined to be hazardous, Irving must manage the wastes in accordance with the State of New Hampshire Hazardous Waste Rules. This includes proper storage of marked, closed, containers on impervious surfaces, assigning appropriate hazardous waste number(s) to the waste, as well as delivery of waste for disposal to a facility authorized to handle the hazardous waste. Alternatively, if the wastes are determined to be non-hazardous, Irving may dispose of them as a solid waste.

2. Env-Wm 513.01(a) – reporting of hazardous waste discharges

At the time of the inspection, petroleum contaminated soil was observed adjacent to the Fill Station Area pump mechanism. The contaminated soil appeared to have resulted from oil and gasoline discharges from the pump and/or spillage from hoses. Waste gasoline is hazardous for the characteristics of ignitability (D001) and toxicity (D018) under Env-Wm 403.03 and Env-Wm 403.06. DES has no record of receiving a report from Irving of this discharge.

Irving's Alton Bulk Plant is located in a wellhead protection area of a community water supply source for the Town of Alton (PWSID 0061010-001 and 0061010-501). In addition to the hazardous waste characteristics listed above, waste gasoline has the potential to contaminate soil, surface, ground and drinking water with MtBE.

Env-Wm 513.01(a) requires that hazardous waste generators report to DES any discharge of hazardous waste or any discharge of a material which when discharged, becomes a hazardous waste that poses a threat to human health or the environment. For example, discharges into storm or sanitary sewers, onto the land or into the air, groundwater or surface waters.

DES requests that Irving ensure that any hazardous waste releases are immediately reported to DES, Waste Management Division at (603) 271-3899, Monday through Friday, 8 a.m. to 4 p.m. or the New Hampshire Department of Safety Hazmat Unit at 1-800-346-4009 at any other time; and to the local emergency officials (i.e. fire department) in which the discharge occurs.

Irving may elect to mitigate future hazardous waste discharges by designing and constructing secondary containment structures around the Fill Station Area pump mechanism. Proper installation of secondary containment structures that effectively prevent soil contamination may eliminate notification requirements during future accidental hazardous waste discharges.

3 Env-Wm 513.02 – discharge cleanup

At the time of the inspection, inspectors confirmed that Irving did not initiate cleanup activities of the hazardous waste discharge identified adjacent to the Fill Station Area pump mechanism. Irving also did not submit to DES's Waste Management Division a written scope of work proposal detailing actions to be taken to prevent the discharge from presenting a hazard to human health or the environment.

Env-Wm 513.02(a) requires that, in the event of a hazardous waste discharge or any discharge of a material which when discharged becomes a hazardous waste, the generator shall immediately contain and cleanup the discharge. Env-Wm 513.02(b) further requires that, if the hazardous waste discharge cannot be cleaned up within 24 hours of the spill, the generator shall submit to DES's Waste Management Division a cleanup plan which details what actions the generator will take to prevent the discharge from presenting a hazard to human health or the environment.

DES requests that Irving immediately take responsibility for cleanup of any hazardous waste discharges. In the event that the discharge cannot be cleaned up within 24 hours of the spill, DES requests that Irving submit a cleanup plan which details what actions Irving will take to prevent the discharge from presenting a hazard to human health or the environment. Specifically, for the hazardous waste discharge adjacent to the Fill Station Area pump mechanism, DES requests that Irving submit two copies of the cleanup plan (one copy to George Lombardo, Administrator of the Oil Remediation and Compliance Bureau, and one copy to Kenneth Marschner, Administrator of Waste Management Programs).

Any waste generated from the cleanup will be subject to a hazardous waste determination and must be disposed appropriately based on the determination. Testing should include, at a minimum, Toxicity Characteristic Leaching Procedure for organics under Env-Wm 403.06, and ignitability under Env-Wm 403.03. Irving will need to provide the results of the hazardous waste determination, along with any other supporting data, such as chemical analyses, to DES. Irving may declare any of the above-mentioned wastes to be hazardous based on knowledge of the wastes, and forego the expense of the testing. In the event wastes are determined to be hazardous, Irving must manage the wastes in accordance with the State of New Hampshire Hazardous Waste Rules.

4. Env-Wm 809.02 - standards for spent lead-acid batteries being reclaimed

At the time of the inspection, Irving was storing two (2) automotive lead-acid batteries on the soil adjacent to the facility building. One of the batteries observed was not stored in an upright position.

Env-Wm 809.02 requires that generators and collectors of spent lead-acid batteries, destined for reclamation, store the batteries in a manner designed to ensure that battery housings do not break or leak acid onto the soil or into any ground waters or surface waters.

DES requests that Irving store waste automotive batteries in a safe manner during storage and accumulation. This includes, but is not limited to, removing the above-mentioned batteries from the soil and storing them where their potential for breakage and leakage is minimized.

DES believes the cited deficiencies can be corrected and a report describing the corrective measures taken by Irving can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against Irving, including issuing an order requiring that deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may reinspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during subsequent inspections of the facility.

The written report as requested above should be addressed as follows

Kenneth W. Marschner, Administrator  
DES/WMD  
6 Hazen Drive  
Concord, New Hampshire 03301-6509

Enclosed you will find a copy of the completed Multi Media Partial Inspection Checklist which documents the compliance status of your facility at the time of the inspection. This checklist may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

A current, full set of the State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline that is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New

Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at 271-2942.

Should you have any questions regarding this letter, please contact the lead inspector, Eric K. Abrams or John J. Duclos, Supervisor of the Hazardous Waste Compliance Section at 271-2942. Specific questions regarding water related issues may be directed to Sharon Ducharme of DES's Water Division at 271-3307, and for air related issues, please contact Pam Monroe of DES's Air Resources Division at 271-1370. Thank you for your cooperation.

Sincerely,



Kenneth W. Marschner, Administrator  
Waste Management Programs  
Waste Management Division

CERTIFIED MAIL RRR# 7099 3400 0002 9773 1816

cc: DB/RCRA/LOD/Archives  
Philip J. O'Brien, Ph.D., Director, WMD  
Gretchen Rule, DES Enforcement Coordinator  
George Lombardo, Administrator, DES Oil Remediation and Compliance Bureau  
Tony Giunta, Administrator, DES Water Supply Engineering Bureau

E-mail: JJD/SD/SD/PM

Enclosure: Inspection Checklist  
NHDES list of "Laboratories that Test Hazardous Waste"  
NHDES list of "Hazardous Waste Transporters"  
NHDES "Small Quantity Generator Requirements in New Hampshire"  
NHDES "Summary of Requirements for Management of Used Oil Being Recycled"